MONTANA LEGISLATIVE HISTORY

Chapter 568 1979

Bill H 859 S _____ Original bill & history ____C

H. Committee on State Administration			S. Committee on Select Comm. on Employee Compensation		
Hearing Date(s)	Feb 19	____C	Hearing Date(s)	Mar 20	✓ C
missing	_____	____C		_____	____C
	_____	____C		_____	____C
	_____	____C		_____	____C
Date Out	_____	____C		Mar 20	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

HOUSE BILL NO. 859

INTRODUCED BY Brand

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY AND REVISE THE PROVISIONS OF THE STATE EMPLOYEE CLASSIFICATION AND BENEFIT LAWS; AMENDING SECTIONS 2-18-101, 2-18-102, 2-18-601, 2-18-603, 2-18-611, 2-18-612, AND 2-18-617 THROUGH 2-18-619, MCA; AND REPEALING SECTIONS 2-18-602 AND 2-18-613, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-18-101, MCA, is amended to read:

"2-18-101. Definitions. As used in parts 1 through 3 of this chapter, the following definitions apply:

(1) "Agency" means a department, board, commission, office, bureau, institution, or unit of state government recognized in the state budget.

(2) "Compensation" means the annual wage or salary plus the annual state contribution of health insurance premiums under provisions of 2-18-703.

(3) "Department" means the department of administration.

(4) Except in 2-18-306, "employee" means any state employee other than an employee excepted under 2-18-103 from the statewide classification system.

(5) "Permanent position" means a position so designated on the appropriate agency list of authorized positions referenced in 2-18-206 and approved as such in the biennium budget.

(6) "Permanent status" means the state an employee attains after satisfactorily completing an appropriate probationary period in a permanent position.

~~(5)~~(7) "Personal staff" means those positions occupied by employees appointed by the elected officials enumerated in 2-18-103(10).

~~(6)~~(8) "Position" means a collection of duties and responsibilities currently assigned or delegated by competent authority, requiring the full-time, part-time, or intermittent employment of one person.

~~(7)~~(9) "Program" means a combination of planned efforts to provide a service.

(10) "Seasonal position" means a position so designated on the appropriate agency list of authorized positions referenced in 2-18-206 and which is a permanent position but which is interrupted by the seasonal nature of the position.

(11) "Temporary position" means a position so designated on the appropriate agency list of authorized positions referenced in 2-18-206, created for a definite period of time not to exceed 9 months."

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INTRODUCED BILL

Section 2. Section 2-18-102, MCA, is amended to read:

"2-18-102. Personnel administration -- general policy setting. (1) ~~The~~ Except as otherwise provided by law, the department shall:

(a) encourage and exercise leadership in the development of effective personnel administration within the several agencies in the state and make available the facilities of the department to this end;

(b) foster and develop programs for recruitment and selection of capable persons for permanent, seasonal, temporary, and other types of positions and for the improvement of employee effectiveness, including training, safety, health, counseling, and welfare, discipline, grievances, and evaluation for productivity and retention in permanent status;

(c) investigate from time to time the operation and effect of parts 1 and 2 of this chapter and the policies made thereunder and report the findings and recommendations to the governor;

(d) establish policies, procedures, and forms for the maintenance of records of all employees in the state service;

(e) apply and carry out parts 1 and 2 and the policies thereunder and perform any other lawful acts which may be necessary or desirable to carry out the purposes and

provisions of parts 1 and 2.

(2) The department may delegate authority granted to it under parts 1 and 2 to agencies in the state service that effectively demonstrate the ability to carry out the provisions of parts 1 and 2, provided that such agencies remain in compliance with policies, procedures, time tables, and standards established by the department.

(3) The department shall develop and issue personnel policies for the state. Adequate public notice shall be given to all interested parties of proposed changes or additions to the personnel policies before the date they are to take effect. If requested by any of the affected parties, the department shall schedule a public hearing on proposed changes or additions to the personnel policies before the date they are to take effect."

Section 3. Section 2-18-601, MCA, is amended to read:

"2-18-601. Definitions. For the purpose of this part, the following definitions apply:

(1) "Agency" means any legally constituted department, board, or commission of state, county, or city government or any political subdivision thereof.

(2) "Employee" means any person employed by ~~the state, county, or city governments~~ an agency except elected state, county, or city officials, schoolteachers, and persons contracted as independent contractors or hired under

personal services contracts.

(3) "Permanent employee" means an employee who ~~regularly works for more than 6 months in any 12-month period~~ is assigned to a position designated as permanent on the appropriate list of authorized positions referenced in 2-18-206 and approved as such in the biennium budget.

(4) "Part-time employee" means an employee who normally works less than 40 hours a week.

(5) "Full-time employee" means an employee who normally works 40 hours a week.

(6) "Temporary ~~position~~ employee" means an employee assigned to a position designated as temporary on the appropriate agency list of authorized positions referenced in 2-18-206, created for a definite period of time but not to exceed 6 9 months ~~and the position is not renewable~~.

(7) "Seasonal ~~position~~ employee" means an employee assigned to a position ~~which, although temporary in nature, regularly occurs from season to season or from year to year~~ designated as seasonal on the appropriate agency list of authorized positions referenced in 2-18-206 and for which the agency has a permanent need but which is interrupted by the seasonal nature of the assignment.

(8) "Vacation leave" means a leave of absence with pay for the purpose of rest, relaxation, or personal business at the request of the employee and with the concurrence of the

employer.

(9) "Sick leave" means a leave of absence with pay for a sickness suffered by an employee or his immediate family.

(10) "Transfer" means a change of employment from one agency to another agency in the same jurisdiction without a break in service ~~of more than 5 working days~~.

(11) "Continuous employment" means working within the same jurisdiction without a break in service ~~of more than 5 working days or without a continuous absence without pay of more than 15 working days~~.

(12) "Break in service" means that a period of time an ~~employee takes to change employment from one agency to employment in another agency of the same jurisdiction~~ in excess of 5 working days when the person is not employed and that severs continuous employment."

Section 4. Section 2-18-603, MCA, is amended to read:

"2-18-603. Holidays -- observance when falling on employee's day off. (1) Any full-time employee who is scheduled for a day off on a day which is observed as a legal holiday, except Sundays, shall be entitled to receive a day off either on the day preceding or the day following the holiday, whichever allows a day off in addition to the employee's regularly scheduled days off. Part-time employees receive paid holiday time off based only on the number of hours scheduled for the holiday.

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(2) For purposes of this section, the term "employee" does not include nonteaching school district employees."

Section 5. Section 2-18-611, MCA, is amended to read:

"2-18-611. Annual vacation leave. (1) Each permanent full-time employee ~~of the state or any county or city thereof is entitled to and~~ shall earn annual vacation leave credits from the first ~~full pay period~~ day of employment. For calculating vacation leave credits, 2,080 hours (52 weeks x 40 hours) shall equal 1 year. ~~Proportionate vacation~~ Vacation leave credits earned shall be ~~earned and~~ credited at the end of each pay period. However, employees are not entitled to any vacation leave with pay until they have been continuously employed for a period of 6 calendar months.

(2) ~~Persons regularly employed 9 or more months each year but whose continuous employment is interrupted by the seasonal nature of the position~~ Seasonal employees shall earn vacation credits. However, such persons must be employed 6 qualifying months before they ~~can~~ may use the vacation credits. In order to qualify, such employees must immediately report back for work when operations resume in order to avoid a break in service.

(3) Permanent part-time employees are entitled to prorated annual vacation benefits if they have ~~regularly scheduled work assignments and normally work at least 20 hours each week of the pay period and have~~ worked the qualifying period.

(4) An employee may not accrue annual vacation leave credits while in a leave-without-pay status, except during the initial 6-month probation period.

(5) Temporary employees do not earn vacation leave credits, except that a temporary employee who is subsequently hired into a permanent position within the same jurisdiction without a break in service and temporary employees who are employed continuously longer than 6 months may count as earned leave credits for the immediate term of temporary employment."

Section 6. Section 2-18-612, MCA, is amended to read:

"2-18-612. Rate earned. Vacation leave credits ~~shall~~ be are earned at a yearly rate calculated in accordance with the following schedule, which applies to the total years of an employee's employment with any agency whether the employment is continuous or not:

Years of employment	Working days credit
1 ~~full pay period~~ day through 10 years	15
10 years through 15 years	18
15 years through 20 years	21
20 years on	24"

Section 7. Section 2-18-617, MCA, is amended to read:

"2-18-617. Accumulation of leave -- cash for unused --

transfer. (1) Annual vacation leave may be accumulated to a total not to exceed two times the maximum number of days earned annually as of the ~~last day~~ end of the first pay period of ~~any~~ the next calendar year.

(2) An employee who terminates his employment ~~with the state or any county or city thereof~~ for reason not reflecting discredit on himself shall be entitled upon the date of such termination to cash compensation for unused vacation leave, assuming that the employee has worked the qualifying period set forth in 2-18-611.

(3) However, if an employee transfers between agencies of the same ~~state, county, or city~~ jurisdiction, there shall be no cash compensation paid for unused vacation leave. In such a transfer the receiving agency assumes the liability for the accrued vacation credits transferred with the employee."

Section 8. Section 2-18-618, MCA, is amended to read:

"2-18-618. Sick leave. (1) Each permanent full-time employee ~~of the state or of any county or city thereof is entitled to and~~ shall earn sick leave credits from the first ~~full pay period~~ day of employment. For calculating sick leave credits, 2,080 hours (52 weeks x 40 hours) shall equal 1 year. ~~Proportionate sick~~ Sick leave credits shall be earned ~~and~~ credited at the end of each pay period. Sick leave credits shall be earned at the rate of 12 working days

for each year of service without restriction as to the number of working days ~~he~~ that may ~~accumulate~~ be accumulated. Employees are not entitled to be paid sick leave until they have been continuously employed 90 days.

(2) An employee may not accrue sick leave credits ~~during~~ while in a ~~continuous leave of absence without pay which exceeds 15 calendar days~~ leave without pay status. ~~Employees are not entitled to be paid for sick leave under the provisions of this section until they have been continuously employed for 90 days. Upon completion of the qualifying period, the employee is entitled to the sick leave credits he has earned.~~ except during the 90-day qualifying period.

(3) Permanent part-time employees are entitled to prorated leave benefits if they have ~~a regularly scheduled work assignment and normally work at least 20 hours each week of the pay period and have~~ worked the qualifying period.

(4) Full-time temporary and seasonal employees are entitled to sick leave benefits provided they work the qualifying period.

(5) An employee who terminates employment with the ~~state or any county or city thereof~~ agency is entitled to a lump-sum payment equal to one-fourth of the pay attributed to the accumulated sick leave. The pay attributed to the

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accumulated sick leave shall be computed on the basis of the employee's salary or wage at the time he terminates his employment with the state, county, or city. Accrual of sick leave credits for calculating the lump-sum payment provided for in this subsection begins July 1, 1971. The payment therefor shall be the responsibility of the ~~state or any county or city thereof~~ agency wherein the sick leave accrues. However, no employee forfeits any sick leave rights or benefits he had accrued prior to July 1, 1971. However, where an employee transfers between agencies within the same ~~state, county, or city~~ jurisdiction, he shall not be entitled to a lump-sum payment. In such a transfer the receiving agency shall assume the liability for the accrued sick leave credits earned after July 1, 1971, and transferred with the employee.

(6) An employee ~~of the state or any county or city thereof~~ who receives a lump-sum payment pursuant to this section and who is again employed by ~~the state or a county or city thereof~~ any agency shall not be credited with any sick leave for which he the employee has previously been compensated.

~~(7) The department of administration or the administrative office of any county or city shall be responsible for the proper administration of sick leave and shall promulgate such rules as it deems necessary to~~

~~achieve the uniform administration of sick leave and to prevent the abuse thereof. When promulgated, these rules are effective as to all employees of the state or any county or city thereof.~~

~~(8)~~(7) Abuse of sick leave is cause for dismissal and forfeiture of the lump-sum payments provided for in this section."

Section 9. Section 2-18-619, MCA, is amended to read:

"2-18-619. Jury duty -- service as witness. (1) Each employee ~~of the state or any political subdivision thereof~~ who is under proper summons as a juror shall collect all fees and allowances payable as a result of the service and forward the fees to the appropriate accounting office. Juror fees shall be applied against the amount due the employee from his employer. However, if an employee elects to charge his juror time off against his annual leave, he shall not be required to remit his juror fees to his employer. In no instance is an employee required to remit to his employer any expense or mileage allowance paid him by the court.

(2) An employee subpoenaed to serve as a witness shall collect all fees and allowances payable as a result of the service and forward the fees to the appropriate accounting office. Witness fees shall be applied against the amount due the employee from his employer. However, if an employee elects to charge his witness time off against his annual

leave, he shall not be required to remit his witness fees to his employer. In no instance is an employee required to remit to his employer any expense or mileage allowances paid him by the court.

(3) Employers may request the court to excuse their employees from jury duty if they are needed for the proper operation of a unit of state or local government.

~~(4) The department of administration or the administrative office of any city or county shall issue the necessary regulations to implement this section.~~"

NEW SECTION. Section 10. Administration of rules. The department of administration or the administrative officer of any county, city, or political subdivision is responsible for the proper administration of the employee annual, sick, or military leave provisions and the jury duty provisions found in Title 2, chapter 18, part 6, and shall promulgate rules necessary to achieve the uniform administration of these provisions and to prevent the abuse thereof. When promulgated, the rules are effective as to all employees of the state or any county, city, or political subdivision thereof.

Section 11. Codification. It is intended that section 10 be codified as an integral part of Title 2, chapter 18, part 6, and the provisions of Title 2, chapter 18, part 6, [illegible] to section 10.

Section 12. Repealer. Sections 2-18-602 and 2-18-613, MCA, are repealed.

-End-

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NOTE

The minutes for the afternoon/evening meeting of February 19th have apparently been misplaced by the committee secretary. A search has been made of all of the minutes of the State Administration Committee and those for the second meeting on the 19th cannot be found.

BEC
6-19-1980

MINUTES OF THE MEETING
SELECT COMMITTEE ON EMPLOYEE COMPENSATION

12:30 P.M.
March 20, 1979
Room 108
State Capitol Building

The meeting was called to order by Acting Chairman Senator Himsl at 12:30 P.M. All members were present except Senators Lockrem and Story.

Representative Joe Brand from District 28, sponsor of HB 859, explained that his bill had been drafted because of a request from the Department of Administration. This bill clarifies current statutory language by addressing three minor problem areas. These areas deal with status of employees, permanent, seasonal and temporary and to design programs to recruit these different classifications of employees; defining employee and exempting elected state, county, or city officials, school teachers, and persons contracted as independent contractors; and giving vacation and holiday benefits to each of these groups of employees. Senator Himsl asked if there were any proponents to this bill.

Mr. Pat Estenson, Chief of the Personnel Division of the Employees Relations Bureau, stated that he was in favor of this bill because certain agencies had been experiencing problems dealing with the language in the current statutes. He cited the Highway Department as one such agency. This bill he went on further to say would provide uniform terminology in personnel policies for the state. He respectfully requested that the Committee give the bill a do pass recommendation.

The next proponent to HB 859 was Mr. Don Judge, the Executive Director of the AFSCME, AFL-CIO No. 9, stated that he was in favor of the bill if the Committee would place amendments to add the collective bargaining ingredient in general policy setting areas. He stated that there may be some disagreement as to which of the two employee practices laws would take precedent if the bill were left as it is. A copy of these amendments is attached.

There was no opposition to this bill.

Rep. Brand closed by asking that the Committee do give this bill a favorable recommendation. The hearing was then closed on HB 859.

Senator Himsl then opened the hearing on HB 260 and introduced its sponsor, Representative Carroll South. Representative South, District 51, stated that his bill transfers the authorization for changes in wage and classification from the Budget Director to the Department of Administration. He also stated that he had talked with both departments and they concur in this suggestion. Senator Himsl asked if there were any proponents to the bill.

3/20
exhibit 1

SELECT COMMITTEE ON EMPLOYEE COMPENSATION

March 20, 1979

House Bill 859

Chairman, Members of the Committee:

I am Pat Estenson, Chief, Employee Relations Bureau, Personnel Division. I am here to testify in support of House Bill 859.

This bill will clarify the language in the sick and annual leave statutes and resolve some problems in the administration of these statutes. The need for these changes has been identified through three primary sources:

- The Personnel Policy Section in the Department of Administration
- The State Personnel Network
- Recodification of the Statutes

First in 1975, as required in 2-18-102(3), the Department of Administration began to develop personnel policies for all State agencies, and just as importantly, to respond to State agency and local jurisdiction requests for interpretation of current statutes and existing policies. As a result, the need for clarification in the current statutes was obvious.

Second another source which identified this need was the State Personnel Network, composed of personnel officers from each agency, representing the agency directors. Members of the Personnel Network review personnel policies which are developed by the Department of Administration and generally assist in their development. As a result of their involvement in personnel policy development, the deficiencies in the current statutes were identified.

Third, the recodification of the statutes pointed out some deficiencies and redundancies in the current statutes. Also, some minor inconsistencies in establishing benefits for state employees has occurred as the result of changes by different legislatures.

This bill intends to accomplish the following:

a) Resolve a problem which currently exists in the Department of Highways created when temporary employees are hired for summer construction projects.

   Presently, each summer the Department of Highways hires from 300-400 temporary employees to staff highway construction projects. Under the current definitions in the annual leave statutes, a temporary employee becomes a permanent employee for the purpose of annual leave after six months. Because the majority of highway construction projects last more than six months, many employees who were hired for temporary employment become "permanent employees" for the purpose of calculating leave time.

Since the term permanent employee is presently defined only in the annual leave statutes, some confusion results. These temporary employees hired for the length of the summer construction project become permanent employees for the purpose of annual leave after six months. The bill would help to eliminate this confusion by establishing a definition of permanent status as well as temporary employee.

b) Provide for definition of personnel terms which will be used uniformally in personnel policies developed by the Department of Administration.

Presently, terms such as permanent employee, temporary employee, seasonal employee, are defined in the leave statutes, but differ in meaning if the term is used for sick leave or annual leave. The adoption of the terms in 2-18-101(8)(9)(10)(11) would provide a basis for bringing more consistency into the personnel policies developed by the Department of Administration.

c) Clarify days off for permanent and part-time employees when a holiday falls on an employee's day off.

Currently 2-18-603 states that (1) Any employee who is scheduled for a day off on a day which is observed as a legal holiday, except Sunday, shall be entitled to receive a day off either on the day preceding or the day following, whichever allows a day off in addition to the employee's regularly scheduled days off.

This language seems appropriate for full-time employees but it appears inappropriate for part-time employees. Some examples will clarify the problem:

1) A part-time employee who works only 1 day a week has 6 days off and therefore could receive a full paid day off and not work at all if the holiday falls before or after the 1 day on which that employee is scheduled to work.

2) An employee who works Monday, Tuesday and Wednesday would receive Wednesday off if a holiday fell on Thursday, and Tuesday off if a holiday fell on a Monday.

3) An employee who works Tuesday and Thursday would receive Tuesday off if the holiday fell on Monday or Wednesday, and Thursday off if the holiday fell on Wednesday or Friday.

The bill would allow part-time employees leave with pay if the holiday falls on the day they are scheduled to work -- but not if it falls on any other day they are not scheduled to work.

I feel the bill addresses these problems and in addition will provide modifications to clarify the current statutes.

I support the bill and recommend favorable consideration by this committee.

If you have any questions concerning the bill, I will be happy to respond to them.

AMENDMENTS TO HB 859

SUBMITTED BY DON JUDGE, AFL-CIO #9

1. Page 3, line 3.

Following: "law"

Insert: "or collective bargaining agreement"

Administration. He explained that HB 528 completely "washes out" the intent of the law by allowing the State Personnel Division to merely "consult with the representative of the bargaining unit over classification specifications". This would destroy any power the bargaining agent has he explained, and he urged the Committee to give a do not pass recommendation to HB 528.

At this point, questions were asked by the Committee and answered by the different organizations represented at the hearing. The hearing was then closed on HB 528 by Senator Himsl. Representative Gerke and Senator Story then left the hearing and so did not vote. At this point, the Committee went into Executive Session to consider HB 260. Representative Tropila moved that HB 260 do pass. This motion carried unanimously, and it was the concensus of the Committee that Senator Fasbender would carry this bill on the Senate floor.

Representative Tropila then moved that the amendments to HB 859, as presented do pass. Representative South, the sponsor of HB 859, stated that he was in agreement with the amendments proposed. This motion carried unanimously. Representative South then moved that as amended HB 859 do pass. This motion carried unanimously, and it was the concensus of the Committee that Senator Himsl would carry this bill on the Senate floor.

Representative South then moved that both pages of amendments proposed to HB 437 do pass. This motion carried unanimously. Senator Regan then moved that HB 437 do pass as amended. This motion also carried unanimously. Senator Himsl then stated that this bill would be placed back in the Senate Finance and Claims Committee for their approval. It was the concensus of the Committee that Senator Fasbender would carry HB 437 on the Senate floor.

Representative South then moved that consideration of HB 528 with it's amendments proposed be postponed until he was able to talk to Governor Judge. This motion carried unanimously.

There being no further business, the meeting was adjourned at 10:20 A.M. by Senator Himsl.

CHAIRMAN

SECRETARY

HOUSE BILL NO. 859

INTRODUCED BY BRAND

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY AND REVISE THE PROVISIONS OF THE STATE EMPLOYEE CLASSIFICATION AND BENEFIT LAWS; AMENDING SECTIONS 2-18-101, 2-18-102, 2-18-601, 2-18-603, 2-18-611, 2-18-612, AND 2-18-617 THROUGH 2-18-619, MCA; AND REPEALING SECTIONS 2-18-602 AND 2-18-613, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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(4) Except in 2-18-306, "employee" means any state employee other than an employee excepted under 2-18-103 from the statewide classification system.

(5) "Permanent position" means a position so designated on the appropriate agency list of authorized positions referenced in 2-18-206 and approved as such in the biennium budget.

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~~(5)~~(7) "Personal staff" means those positions occupied by employees appointed by the elected officials enumerated in 2-18-103(10).

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(11) "Temporary position" means a position so designated on the appropriate agency list of authorized positions referenced in 2-18-206, created for a definite period of time not to exceed 9 months."

REFERENCE BILL

Section 2. Section 2-18-102, MCA, is amended to read:

"2-18-102. Personnel administration -- general policy setting. (1) The Except as otherwise provided by law OR COLLECTIVE BARGAINING AGREEMENT, the department shall:

(a) encourage and exercise leadership in the development of effective personnel administration within the several agencies in the state and make available the facilities of the department to this end;

(b) foster and develop programs for recruitment and selection of capable persons for permanent, seasonal, temporary, and other types of positions and for the improvement of employee effectiveness, including training, safety, health, counseling, and welfare, disciplines, grievances, and evaluation for productivity and retention in permanent status;

(c) investigate from time to time the operation and effect of parts 1 and 2 of this chapter and the policies made thereunder and report the findings and recommendations to the governor;

(d) establish policies, procedures, and forms for the maintenance of records of all employees in the state service;

(e) apply and carry out parts 1 and 2 and the policies thereunder and perform any other lawful acts which may be necessary or desirable to carry out the purposes and

provisions of parts 1 and 2.

(2) The department may delegate authority granted to it under parts 1 and 2 to agencies in the state service that effectively demonstrate the ability to carry out the provisions of parts 1 and 2, provided that such agencies remain in compliance with policies, procedures, time tables, and standards established by the department.

(3) The department shall develop and issue personnel policies for the state. Adequate public notice shall be given to all interested parties of proposed changes or additions to the personnel policies before the date they are to take effect. If requested by any of the affected parties, the department shall schedule a public hearing on proposed changes or additions to the personnel policies before the date they are to take effect."

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(2) "Employee" means any person employed by the state, ~~county, or city governments~~ an agency except elected state, county, or city officials, schoolteachers, and persons contracted as independent contractors or hired under

personal services contracts.

(3) "Permanent employee" means an employee who ~~regularly--works--for--more--than--6--months-in-any-12-month period~~ is assigned to a position designated as permanent on the appropriate list of authorized positions referenced in 2-18-206 and approved as such in the biennium budget.

(4) "Part-time employee" means an employee who normally works less than 40 hours a week.

(5) "Full-time employee" means an employee who normally works 40 hours a week.

(6) "Temporary ~~position~~ employee" means an employee assigned to a position designated as temporary on the appropriate agency list of authorized positions referenced in 2-18-206, created for a definite period of time but not to exceed 6 9 months ~~and-the-position-is-not-renewable~~.

(7) "Seasonal ~~position~~ employee" means an employee assigned to a position ~~which, although temporary in nature, regularly occurs from season to season or from year to year~~ designated as seasonal on the appropriate agency list of authorized positions referenced in 2-18-206 and for which the agency has a permanent need but which is interrupted by the seasonal nature of the assignment.

(8) "Vacation leave" means a leave of absence with pay for the purpose of rest, relaxation, or personal business at the request of the employee and with the concurrence of the

employer.

(9) "Sick leave" means a leave of absence with pay for a sickness suffered by an employee or his immediate family.

(10) "Transfer" means a change of employment from one agency to another agency in the same jurisdiction without a break in service ~~of more than 5 working days~~.

(11) "Continuous employment" means working within the same jurisdiction without a break in service ~~of more than 5 working days or without a continuous absence without pay of more than 15 working days~~ OF MORE THAN 5 WORKING DAYS OR WITHOUT A CONTINUOUS ABSENCE WITHOUT PAY OF MORE THAN 15 WORKING DAYS.

(12) "Break in service" means that a period of time an ~~employee takes to change employment from one agency to employment in another agency of the same jurisdiction~~ in excess of 5 working days when the person is not employed and that severs continuous employment."

Section 4. Section 2-18-603, MCA, is amended to read:

"2-18-603. Holidays -- observance when falling on employee's day off. (1) Any full-time employee who is scheduled for a day off on a day which is observed as a legal holiday, except Sundays, shall be entitled to receive a day off either on the day preceding or the day following the holiday, whichever allows a day off in addition to the employee's regularly scheduled days off. Part-time employees

receive paid holiday time off based only on the number of hours scheduled for the holiday.

(2) For purposes of this section, the term "employee" does not include nonteaching school district employees."

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"2-18-611. Annual vacation leave. (1) Each permanent full-time employee of the state or any county or city thereof is entitled to and shall earn annual vacation leave credits from the first full pay period day of employment. For calculating vacation leave credits, 2,080 hours (52 weeks x 40 hours) shall equal 1 year. Proportionate vacation Vacation leave credits earned shall be earned and credited at the end of each pay period. However, employees are not entitled to any vacation leave with pay until they have been continuously employed for a period of 6 calendar months.

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(3) Permanent part-time employees are entitled to

prorated annual vacation benefits if they have regularly scheduled work assignments and normally work at least 20 hours each week of the pay period and have worked the qualifying period.

(4) An employee may not accrue annual vacation leave credits while in a leave without pay status except during the initial 6 month probation period EXCEEDING 15 WORKING DAYS.

(5) Temporary employees do not earn vacation leave credits, except that a temporary employee who is subsequently hired into a permanent position within the same jurisdiction without a break in service and temporary employees who are employed continuously longer than 6 months may count as earned leave credits for the immediate term of temporary employment."

Section 6. Section 2-18-612, MCA, is amended to read:

"2-18-612. Rate earned. Vacation leave credits shall be are earned at a yearly rate calculated in accordance with the following schedule, which applies to the total years of an employee's employment with any agency whether the employment is continuous or not:

Years of employment	Working days credit
1 full pay period day through 10 years	15
10 years through 15 years	18
15 years through 20 years	21

20 years on 24"

Section 7. Section 2-18-617, MCA, is amended to read:

"2-18-617. Accumulation of leave -- cash for unused -- transfer. (1) Annual vacation leave may be accumulated to a total not to exceed two times the maximum number of days earned annually as of the ~~last day~~ end of the first pay period of any the next calendar year.

(2) An employee who terminates his employment ~~with the state or any county or city thereof~~ for reason not reflecting discredit on himself shall be entitled upon the date of such termination to cash compensation for unused vacation leave, assuming that the employee has worked the qualifying period set forth in 2-18-611.

(3) However, if an employee transfers between agencies of the same ~~state, county, or city~~ jurisdiction, there shall be no cash compensation paid for unused vacation leave. In such a transfer the receiving agency assumes the liability for the accrued vacation credits transferred with the employee."

Section 8. Section 2-18-618, MCA, is amended to read:

"2-18-618. Sick leave. (1) Each permanent full-time employee ~~of the state or of any county or city thereof is entitled to and~~ shall earn sick leave credits from the first ~~full pay period~~ day of employment. For calculating sick leave credits, 2,080 hours (52 weeks x 40 hours) shall equal

1 year. ~~Proportionate sick~~ Sick leave credits shall be ~~earned and~~ credited at the end of each pay period. Sick leave credits shall be earned at the rate of 12 working days for each year of service without restriction as to the number of working days ~~he~~ that may ~~accumulate~~ be accumulated. Employees are not entitled to be paid sick leave until they have been continuously employed 90 days.

(2) An employee may not accrue sick leave credits ~~during~~ while in ~~a continuous leave of absence without pay which exceeds 15 calendar days~~ leave without pay status. ~~Employees are not entitled to be paid for sick leave under the provisions of this section until they have been continuously employed for 90 days. Upon completion of the qualifying period, the employee is entitled to the sick leave credits he has earned, except during the 90-day qualifying period~~ EXCEEDING 15 WORKING DAYS.

(3) Permanent part-time employees are entitled to prorated leave benefits if they have ~~a regularly scheduled work assignment and normally work at least 20 hours each week of the pay period and have~~ worked the qualifying period.

(4) Full-time temporary and seasonal employees are entitled to sick leave benefits provided they work the qualifying period.

(5) An employee who terminates employment with the

~~state--or-any-county-or-city-thereof~~ agency is entitled to a lump-sum payment equal to one-fourth of the pay attributed to the accumulated sick leave. The pay attributed to the accumulated sick leave shall be computed on the basis of the employee's salary or wage at the time he terminates his employment with the state, county, or city. Accrual of sick leave credits for calculating the lump-sum payment provided for in this subsection begins July 1, 1971. The payment therefor shall be the responsibility of the ~~state--or--any county--or--city--thereof~~ agency wherein the sick leave accrues. However, no employee forfeits any sick leave rights or benefits he had accrued prior to July 1, 1971. However, where an employee transfers between agencies within the same ~~state,--county,--or--city~~ jurisdiction, he shall not be entitled to a lump-sum payment. In such a transfer the receiving agency shall assume the liability for the accrued sick leave credits earned after July 1, 1971, and transferred with the employee.

(6) An employee ~~of--the--state-or-any-county-or-city thereof~~ who receives a lump-sum payment pursuant to this section and who is again employed by ~~the-state-or-a-county or-city-thereof~~ any agency shall not be credited with any sick leave for which he the employee has previously been compensated.

~~(7)--The---department---of---administration----or---the~~

~~administrative--office--of--any--county--or--city--shall--be responsible-for-the-proper-administration-of-sick-leave--and shall--promulgate--such--rules---as--it--deems--necessary-to achieve-the-uniform-administration--of--sick--leave--and--to prevent-the-abuse-thereof.-When-promulgated,-these-rules-are effective--as-to-all-employees-of-the-state-or-any-county-or city-thereof.~~

~~(8)~~(7) Abuse of sick leave is cause for dismissal and forfeiture of the lump-sum payments provided for in this section."

Section 9. Section 2-18-619, MCA, is amended to read:

"2-18-619. Jury duty -- service as witness. (1) Each employee ~~of-the-state-or-any-political--subdivision--thereof~~ who is under proper summons as a juror shall collect all fees and allowances payable as a result of the service and forward the fees to the appropriate accounting office. Juror fees shall be applied against the amount due the employee from his employer. However, if an employee elects to charge his juror time off against his annual leave, he shall not be required to remit his juror fees to his employer. In no instance is an employee required to remit to his employer any expense or mileage allowance paid him by the court.

(2) An employee subpoenaed to serve as a witness shall collect all fees and allowances payable as a result of the service and forward the fees to the appropriate accounting

office. Witness fees shall be applied against the amount due the employee from his employer. However, if an employee elects to charge his witness time off against his annual leave, he shall not be required to remit his witness fees to his employer. In no instance is an employee required to remit to his employer any expense or mileage allowances paid him by the court.

(3) Employers may request the court to excuse their employees from jury duty if they are needed for the proper operation of a unit of state or local government.

~~(4)--The---department---of---administration---or----the administrative--office-of-any-city-or-county-shall-issue-the necessary-regulations-to-implement-this-section.~~"

NEW SECTION. Section 10. Administration of rules. The department of administration or the administrative officer of any county, city, or political subdivision is responsible for the proper administration of the employee annual, sick, or military leave provisions and the jury duty provisions found in Title 2, chapter 18, part 6, and shall promulgate rules necessary to achieve the uniform administration of these provisions and to prevent the abuse thereof. When promulgated, the rules are effective as to all employees of the state or any county, city, or political subdivision thereof.

Section 11. Codification. It is intended that section

10 be codified as an integral part of Title 2, chapter 18, part 6, and the provisions of Title 2, chapter 18, part 6, apply to section 10.

Section 12. Repealer. Sections 2-18-602 and 2-18-613, MCA, are repealed.

-End-